

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Team # 2	CCRB Case #: 201405139	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/19/2014 7:09 PM	Location of Incident: 60-42 80th Avenue	Precinct: 104	18 Mo. SOL 11/19/2015	EO SOL 11/19/2015	
Date/Time CV Reported Tue, 05/27/2014 2:32 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 05/27/2014 2:32 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Ku	20058	951890	104 PCT
2. POM Eric Rodriguez	06358	952174	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Rodriguez	Abuse: PO Eric Rodriguez threatened to damage § 87(2)(b)'s property.	
B.POM Eric Rodriguez	Abuse: PO Eric Rodriguez threatened § 87(2)(b) with the use of force.	
C.POM Eric Rodriguez	Force: PO Eric Rodriguez pointed his gun at § 87(2)(b).	
D.POM Eric Rodriguez	Abuse: PO Eric Rodriguez threatened § 87(2)(b) with the use of force.	
E.POM Eric Rodriguez	Abuse: PO Eric Rodriguez threatened to arrest § 87(2)(b).	
F.POM Eric Rodriguez	Abuse: PO Eric Rodriguez threatened to notify ACS in regards to § 87(2)(b).	
G.POM Jonathan Ku	Abuse: PO Jonathan Ku threatened to notify ACS in regards to § 87(2)(b).	

### Case Summary

On the evening of May 19, 2014, § 87(2)(b) called 911 with complaints about § 87(2)(b) the tenant living on the second floor of his property at 60-42 80<sup>th</sup> Avenue in Queens (encl. 26A-B). PO Eric Rodriguez and PO Jonathan Ku of the 104<sup>th</sup> Precinct responded to that location at 7:09 p.m. and spoke to § 87(2)(b) who asked them to evict § 87(2)(b) for non-payment of rent and other reasons. § 87(2)(b) was upstairs in her apartment when she heard PO Rodriguez in the hallway, demanding to be let in and yelling through the closed door that he was going to “gun down” § 87(2)(b)'s dog, which was barking (**Allegation A**). He then added that he would “gun down” § 87(2)(b) herself (**Allegation B**). § 87(2)(b) opened her door to find PO Rodriguez pointing a gun at her head from across the threshold (**Allegation C**). § 87(2)(b) § 87(2)(b)-old daughter § 87(2)(b) ran toward the door and PO Rodriguez said he would “gun her down” (**Allegation D**). PO Ku, who had been outside speaking to § 87(2)(b) joined PO Rodriguez at the apartment's front door. Both officers entered § 87(2)(b)'s residence.

At some point, § 87(2)(b) left the scene to get help at the 104<sup>th</sup> Precinct stationhouse. She left her three young children in the care of her § 87(2)(b) old daughter, § 87(2)(b) and § 87(2)(b) § 87(2)(b) old boyfriend, § 87(2)(b). Before § 87(2)(b) left the scene, PO Rodriguez had repeatedly threatened to arrest her and have the Administration for Children's Services (ACS) take her children away (**Allegations E and F**). He continued to make those statements before and after she returned to 60-42 80<sup>th</sup> Avenue. While § 87(2)(b) was at the stationhouse, PO Ku told § 87(2)(b) and § 87(2)(b) that he would call ACS if § 87(2)(b) did not come back to the scene (**Allegation G**). This was captured in a recording made by § 87(2)(b) (encl.10A). By 11:00 p.m., § 87(2)(b) and her children had been evicted from the property. No civilians were arrested or issued summonses.

### Mediation, Civil and Criminal Histories

This case was ineligible for mediation. As of January 27, 2015, an inquiry with the Comptroller about any notice of claim filed by § 87(2)(b) is still pending. § 87(2)(b) has no prior criminal convictions (encl. 31A).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 8A).
- This is the second CCRB complaint filed against PO Eric Rodriguez in the three years he has been a member of the service (encl. 7A).
- In the three years PO Jonathan Ku has been a member of service, he has had two substantiated allegations (encl. 6A). In CCRB case 201303423, allegations of discourtesy and refusal to provide name and shield number were substantiated. The NYPD imposed Command Discipline A in regards to the refusal, and declined to prosecute the discourtesy. § 87(2)(g)

### Findings and Recommendations

#### Allegations Not Pleaded

- **Entry:** § 87(2)(b) allowed the officers into her apartment when discussing her disagreements with the landlord. She never told the officers not to come in and did not dispute their entry or say her consent was given involuntarily.

#### Explanation of Subject Officer Identifications

The civilians interviewed who heard threats to call ACS said that PO Rodriguez made all or most of these threats. However, § 87(2)(b) made a recording in which an officer threatens to call ACS. When the voice

in that recording was compared to the recordings of the officers' voices in their CCRB interviews, it was found to have a very strong resemblance to PO Ku's voice. Therefore, threat to call ACS allegations have been pled against both officers.

### **Recommendations**

**Allegation A – Abuse of Authority: PO Eric Rodriguez threatened to damage § 87(2)(b)'s property.**

**Allegation B – Abuse of Authority: PO Eric Rodriguez threatened § 87(2)(b) with the use of force.**

**Allegation C – Force: PO Eric Rodriguez pointed his gun at § 87(2)(b)**

**Allegation D – Abuse of Authority: PO Eric Rodriguez threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) and PO Rodriguez both stated that they were the only people immediately present when she answered his knock on the door (encl. 13D-F, 22C-E). § 87(2)(b) and § 87(2)(b)'s friend § 87(2)(b) corroborated this (encl. 16D-E, 14D-E). § 87(2)(b) was not interviewed because she was § 87(2)(b) old. PO Rodriguez denied drawing his gun or threatening to “gun down” anyone, and no § 87(2)(g)

**Allegation E – Abuse of Authority: PO Eric Rodriguez threatened to arrest § 87(2)(b)**

§ 87(2)(b) alleged that PO Rodriguez repeatedly threatened to arrest her throughout the incident, generally paired with demands that she sign a paper the landlord presented that said she would move out. All civilians interviewed generally corroborated this except § 87(2)(b) who said that he told the officers § 87(2)(b) frequently leaves her young children alone in the apartment, and that one of the officers told her she could be arrested for that, but never actually said he would arrest her (encl. 11A).

PO Ku did not hear PO Rodriguez threaten to arrest § 87(2)(b) and did not remember if § 87(2)(b) ever mentioned the children being left alone (encl. 19C-D). PO Rodriguez said § 87(2)(b) did not commit any crime that she could be arrested for, and denied telling her she would be arrested. Both officers denied pressuring her to sign an agreement with § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

**Allegation F – Abuse of Authority: PO Eric Rodriguez threatened to notify ACS in regards to § 87(2)(b)**

**Allegation G – Abuse of Authority: PO Jonathan Ku threatened to notify ACS in regards to § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) all stated that officers repeatedly threatened to call ACS about § 87(2)(b)'s children. Like the alleged threats of arrest, these threats were generally paired with demands that § 87(2)(b) agree to vacate the apartment. § 87(2)(b) also said that PO Rodriguez threatened to call ACS while § 87(2)(b) was gone because § 87(2)(b) was too young to watch the children herself. § 87(2)(b) was § 87(2)(b) old and § 87(2)(b) was § 87(2)(b) old.

In the recording made by § 87(2)(b) (encl. 10A), PO Ku's can be heard saying "Tell her you're going to be waiting outside, and if she still doesn't want to come, then we're going to have to call ACS and all that." According to § 87(2)(b) this recording was made while the officers were waiting for § 87(2)(b) to return from the stationhouse.

Both officers denied mentioning ACS and did not name any reasons why they might have called ACS during this incident. Neither officer saw anything that caused him to fear for the children's safety, nor knew how old someone must be to babysit a child. They denied saying that § 87(2)(b) was too young to legally watch her siblings. When the recording was played during their interviews, PO Rodriguez said that the voice that mentioned ACS was definitely not his, but he was not sure if it was PO Ku's, because PO Ku likes to "joke around" by changing his voice. PO Ku said he does not know what his own voice sounds like, so he could not confirm whether the voice in the recording was his. Neither officer remembered the context of the conversation in the recording.

New York does not have a law prescribing a particular age someone must be to babysit a child (encl. 3A). Officers cannot threaten to call ACS in an effort to gain compliance, and must have a legitimate reason to call ACS in order to make this threat. NYPD v. Rodriguez, OATH Index #78166/02 (encl. 4A-U).

§ 87(2)(b), § 87(2)(g)  
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§ 87(2)(b), § 87(2)(g)  
[Redacted text block]

Team: Strike Team

Investigator:	_____	_____	_____
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
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Reviewer:	_____	_____	_____
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